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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,510

12/08/2003

Jon N. Swanson

0920.68747

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24978 7590 07/24/2008

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EXAMINER

ELAHEE, MD S

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

07/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,510	Applicant(s) SWANSON, JON N.	
	Examiner MD S. ELAHEE	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/14/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This case has been transferred from examiner Hassen Mia to examiner Alam Elahee.

Response to Amendment

1. This action is responsive to an amendment filed on 03/12/2008. Claims 1, 3-13 and 15-23 are pending. Claims 2 and 14 have been cancelled. Claims 22 and 23 have been added.

Response to Arguments

2. Applicant's arguments filed on 03/12/2008 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on March 14, 2008 was received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

4. Claims 3-13, 15-18, 22 and 23 are objected to because of the following informalities: regarding claim 3, the phrase "A method" in line 1 should apparently be "The method". Claims 4-13, 15-18, 22 and 23 are objected for the same reasons as discussed above with respect to claim 3. Appropriate correction is required.

5. Claim 21 is objected to because of the following informalities: regarding claim 21, the phrase “A computer program product” in line 1 should apparently be “The computer program product”. Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 20 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim 20 recites a computer program product for communicating at least one primary data stream over a data network, the computer program product embodied in computer executable instructions stored in a computer readable medium, the instructions when executed causing one or more computers to communicate. Claim language does not comply with the requirements of MPEP 2106.01.I. The “medium” is only recited once in the invention disclosure (Preamble of Claim 20). Since “medium” is not defined in the disclosure, it may encompass a variety of media ranging from a piece of paper to a carrier signal. The claimed instructions are merely data

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structure. Data structures not claimed as embodied in computer-readable or machine-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer or machine. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Claim 20 fails to include practical application that produces either (1) tangible, concrete and useful result or (2) physical transformation. Therefore, since the claimed computer-readable medium does not comprise instructions to cause a processor to perform the receiving, recording, extracting, comparing, outputting and evaluating functions of the claim then the Applicant has not complied with 35 U.S.C 101. Since claim 21 is dependent claim, this claim is also rejected under 35 U.S.C 101.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1, 3-13, 15-17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henrikson (U.S. 6,894,715) in view of Potekhin et al. (U.S. 7,054,820).

Regarding claim 1, with respect to Figures 1 and 2, Henrikson teaches a method for communicating at least one primary data stream between a plurality of attendees connected to one another by a communications network comprising the steps of:

One of the plurality of attendees communicating a primary selection command to at least a portion of the plurality of attendees, said primary selection command designating at least one of said plurality of real time data streams communicated from at least one of the plurality of attendees as a primary stream (col.5, lines 20-24);

Henrikson further teaches each of said at least a portion of the plurality of attendees using said primary selection command to identify said primary data stream at said at least a portion of the plurality of attendees (col.4, lines 49-52).

However, Henrikson does not specifically teach that primary selection command is stored in a memory by each of the said at least a portion of the plurality of attendees. Potekhin teaches that primary selection command is stored in a memory by each of the said at least a portion of the plurality of attendees (col.7, lines 54-67). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson to incorporate the feature of storing of primary selection command in a memory by each of the said at least a portion of the plurality of attendees in Henrikson's invention as taught by Potekhin. The

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motivation for the modification is to do so in order to make decision such that a conference system can easily decide whether a speaker of a conference should be mute or search for a dominant participant.

Henrikson further does not specifically teach communicating a plurality of real time data streams from each of the plurality of attendees to all others of the plurality of attendees. Potekhin teaches communicating a plurality of real time data streams from each of the plurality of attendees to all others of the plurality of attendees (col.2, line 67-col.3, line 12). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson to incorporate the feature of communicating a plurality of real time data streams from each of the plurality of attendees to all others of the plurality of attendees in Henrikson's invention as taught by Potekhin. The motivation for the modification is to do so in order to communicate real time voice data such that each of the participants can listen each other.

Regarding claim 3, Henrikson, as applied to claim 1, teaches that said primary selection command designates a plurality of said plurality of data streams as primary data streams (col.4, lines 49-52).

Regarding claim 4, Henrikson, as applied to claim 3, teaches that said primary selection command for selecting a primary video image among said plurality of primary data streams for display (col.4, lines 24-28).

However, Henrikson does not specifically teach that said primary selection command includes a priority ranking. Potekhin teaches that said primary selection command includes a priority ranking (col.8, lines 1-15). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson to incorporate the feature of said primary selection command including a priority ranking in Henrikson's invention as taught by Potekhin. The motivation for the modification is to do so in order to generate appropriate mix of information.

Regarding claim 5, Henrikson, as applied to claim 1, teaches that said at least one primary data stream is a video data stream, and further including the step of at least some of said attendees displaying said primary data stream in a highlighted manner (col.4, lines 33-35).

Regarding claim 6, Henrikson, as applied to claim 5, teaches that the step of displaying said primary data stream in a highlighted manner comprises displaying said primary stream in a larger display size than any others of said plurality of data streams (col.1, lines 34-36, col.6, lines 49-51).

Regarding claim 7, Henrikson, as applied to claim 5, teaches that the step of displaying said primary data stream in a highlighted manner comprises displaying said primary stream using a display template (col.4, lines 33-37).

Regarding claim 8, Henrikson, as applied to claim 7, teaches that said screen display template includes a designated position for displaying said primary data stream (col.4, lines 24-33).

Regarding claim 9, Henrikson, as applied to claim 1, teaches that each of said plurality of real time data streams has an identifier, and wherein said primary selection command includes said identifier corresponding to said primary data stream (col.4, lines 49-50).

Regarding claim 10, Henrikson, as applied to claim 1, teaches that each of said plurality of real-time data streams has a unique identifier, and wherein said primary selection command includes said unique identifier corresponding to said at least one primary data stream, and wherein the step of each of the plurality of attendees using said primary selection command to recognize said primary stream further includes using said primary stream identifier (col.4, lines 45-50).

Claim 11 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Henrikson, as applied to claim 1, teaches that the plurality of real time data streams includes a plurality of real time video streams and at least one real time audio stream, and wherein said primary selection command designates at least one of said plurality of real time video streams from at least one of said plurality of attendees (col.5, lines 20-26).

Regarding claim 12, Henrikson, as applied to claim 1, does not specifically teach enforcing one or more rules that define where said primary selection command may be communicated from. Potekhin teaches enforcing one or more rules that define where said primary selection command may be communicated from (col.10, lines 45-57). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson to incorporate the feature of enforcing one or more rules that define where said primary selection command may be communicated from in Henrikson's invention as taught by Potekhin. The motivation for the modification is to do so in order to change stream gain level.

Regarding claim 13, Henrikson, as applied to claim 12, does not specifically teach said at least one rule calls for said primary selection command to be generated only from a designated one of said plurality of attendees, said at least one rule also allowing for said designated attendee to be changed to a different of said plurality of attendees. Potekhin teaches said at least one rule calls for said primary selection command to be generated only from a designated one of said plurality of attendees, said at least one rule also allowing for said designated attendee to be changed to a different of said plurality of attendees (col.10, lines 45-57). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson to incorporate the feature of said at least one rule calls for said primary selection command to be generated only from a designated one of said plurality of attendees, said at least one rule also allowing for said designated attendee to be changed to a different of said plurality of attendees in Henrikson's invention as taught by Potekhin. The motivation for the modification is to do so in order to route certain participant to appropriate channel.

Regarding claim 15, Henrikson, as applied to claim 1, teaches said primary selection command is communicated from a meeting facilitator connected to the network, said meeting facilitator monitoring all of said plurality of data streams but not communicating a video or audio data stream to said plurality of attendees, and wherein said at least a portion of said plurality of attendees is all of said plurality of attendees (col.4, lines 66-67, col.5, lines 1-2).

Regarding claim 16, Henrikson, as applied to claim 1, teaches that said primary selection command includes a first primary selection command, and wherein the method further includes the step of communicating a second primary selection command to at least a portion of said plurality of attendees, said second primary selection command causing said at least one primary stream to be replaced by at least one second primary stream identified in said second primary selection command (col.4, lines 66-67, col.5, lines 1-2).

Regarding claim 17, Henrikson, as applied to claim 1, teaches that said second primary selection command is communicated from a second of said plurality of attendees to all others of said plurality of attendees (col.6, lines 8-18).

Claim 19 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Henrikson, as applied to claim 1, teaches displaying said primary data stream in a highlighted manner (col.4, lines 33-35).

Claim 20 is rejected for the same reasons as discussed above with respect to claims 1 and 11.

Claim 21 is rejected for the same reasons as discussed above with respect to claim 19.

Claim 22 is rejected for the same reasons as discussed above with respect to claims 1 and 12. However, Henrikson in view of Potekhin does not specifically teach a virtual token to communicate said primary selection command and said one of the plurality of attendees holding said virtual token passing said virtual token to a second of the plurality of attendees wherein said second of the plurality of attendees may communicate said primary selection command. Examiner takes an official notice that a virtual token to communicate said primary selection command and said one of the plurality of attendees holding said virtual token passing said virtual token to a second of the plurality of attendees wherein said second of the plurality of attendees may communicate said primary selection command are well known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson in view of Potekhin to incorporate a virtual token to communicate said primary selection command and said one of the plurality of attendees holding said virtual token passing said virtual token to a second of the plurality of attendees wherein said second of the plurality of attendees may communicate said primary selection command in Henrikson's invention in view of Potekhin in order to pass token to different terminals.

Claim 23 is rejected for the same reasons as discussed above with respect to claims 1 and 12.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henrikson (U.S. 6,894,715) in view of Potekhin et al. (U.S. 7,054,820) further in view of Jang et al. (U.S. 6,442,758).

Claim 18 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Henrikson, as applied to claim 1, teaches that said plurality of attendees are a plurality of conference rooms participating in a virtual meeting, at least one microphone that generates a real time audio signal, and wherein said at least one primary data stream comprises a plurality of primary data streams, said plurality of primary data stream includes at least one video data stream from each of said plurality of conference rooms (col.5, lines 20-24, col.6, lines 8-18);

However, Henrikson in view of Potekhin does not specifically teach each of said conference rooms having a plurality of cameras that each generate a real time video signal. Jang teaches each of said conference rooms having a plurality of cameras that each generate a real time video signal (col.8, lines 32-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henrikson in view of Potekhin to incorporate the feature of each of said conference rooms having a plurality of cameras that each generate a real time video signal in Henrikson's invention in view of Potekhin as taught by Jang. The motivation for the modification is to do so in order to have cameras for easily makes video for the participants in conference.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MD S ELAHEE/
MD SHAFIUL ALAM ELAHEE
Examiner
Art Unit 2614
July 25, 2008